

CHAPTER 4 EMPLOYERS

[Prior to 6/9/04, see 581—Ch 21]

495—4.1(97B) Covered employers.

4.1(1) Definition. All public employers in the state of Iowa, its cities, counties, townships, agencies, political subdivisions, instrumentalities and public schools are required to participate in IPERS. For the purposes of these rules, the following definitions also apply:

a. “Political subdivision” means a geographic area or territorial division of the state which has responsibility for certain governmental functions. Political subdivisions are characterized by public election of officers and taxing powers. The following examples are representative: cities, municipalities, counties, townships, schools and school districts, drainage and levee districts, and utilities.

b. “Instrumentality of the state or a political subdivision” means an independent entity that is organized to carry on some specific function of government. Public instrumentalities are created by some form of governmental body, including federal and state statutes and regulations, and are characterized by being under the control of a governmental body. Such control may include final budgetary authorization, general policy development, appointment of a board by a governmental body, and allocation of funds.

c. “Public agency” means state agencies and agencies of political subdivisions. Representative examples include an executive board, commission, bureau, division, office, or department of the state or a political subdivision.

d. Effective July 1, 1994, the definition of employer includes an area agency on aging that does not offer an alternative plan to all of its employees that is qualified under the federal Internal Revenue Code.

Covered employers include, but are not limited to: the state of Iowa and its administrative agencies; counties, including their hospitals and county homes; cities, including their hospitals, park boards and commissions; recreation commissions; townships; public libraries; cemetery associations; municipal utilities including waterworks, gasworks, electric light and power; school districts including their lunch and activity programs; state colleges and universities; and state hospitals and institutions.

Any employing unit not already reporting to IPERS which fulfills the conditions with respect to becoming an employer shall immediately give notice to IPERS of that fact. Such notice shall set forth the name and address of the employing unit, and such other information as may be required by IPERS in its status determination form. If, after review of this information, IPERS determines that the applicant should be treated as a covered employer, IPERS will contact the employer and provide it with a unique account number to use when submitting information to IPERS. IPERS shall not be required to provide benefits otherwise available under Iowa Code chapter 97B for periods of service prior to the date on which IPERS actually receives such notice, unless the employer agrees to pay the full actuarial cost of providing such benefits.

An employer may request a revised beginning date for its status as a covered employer. The employer must submit acceptable proof to IPERS that its status as a covered employer began earlier than the date previously provided. In such case, the employer shall provide IPERS coverage retroactively to all employees providing services to that employer on or after the revised beginning date and shall pay all actuarial costs.

4.1(2) Name change. Any employing unit which has a change of name, address, title of the unit, its reporting official or any other identifying information shall immediately give notice in writing to IPERS. The notice shall provide IPERS with the following information:

- a. Former name;*
- b. Former address;*
- c. IPERS account number;*

- d.* New name, address, and telephone number of the employing unit;
- e.* Reason for the change if other than a change of reporting official; and
- f.* Effective date of the change.

4.1(3) Termination. Any employing unit which terminates or is dissolved for any reason shall provide IPERS with the following:

- a.* Complete name and address of the dissolved entity;
- b.* Assigned IPERS account number;
- c.* Last date on which wages were paid;
- d.* Date on which the entity dissolved;
- e.* Reason for the dissolution;
- f.* Whether or not the entity expects to pay wages in the future;
- g.* Whether the entity is being absorbed by another covered employer;
- h.* Name and address of absorbing employer unit if applicable; and
- i.* Name and address of employer that will retain the records of the dissolved entity.

4.1(4) Reports of dissolved or absorbed employers. An employing unit that has been dissolved or entirely absorbed by another employing unit is required to file a quarterly or monthly report with IPERS through the last date on which it legally existed. Any wages paid after the legal date of dissolution are reported under the account number assigned to the new or successor employing unit, if any.

4.1(5) IPERS account number. Each reporting unit is assigned an IPERS account number. This number should be used on all correspondence and reporting forms directed to IPERS.

4.1(6) For patient advocates employed under Iowa Code section 229.19, the county or counties for which services are performed shall be treated as the covered employer(s) of such individuals, and each such employer is responsible for withholding and forwarding the applicable IPERS contributions on wages paid by each employer.

495—4.2(97B) Records to be kept by the employer.

4.2(1) General. Each employing unit shall maintain records to show the information hereinafter indicated. Records shall be kept in the form and manner prescribed by IPERS. Records shall be open to inspection and may be copied by IPERS and its authorized representatives at any reasonable time.

4.2(2) Records shall show with respect to each employee:

- a.* Employee's name, address and social security account number;
- b.* Each date the employee was paid wages or other wage equivalent (e.g., room, board);
- c.* Total amount of wages paid on each date including noncash wage equivalents;
- d.* Total amount of wages including wage equivalents on which IPERS contributions are payable;
- e.* Amount withheld from wages or wage equivalents for the employee's share of IPERS contributions; and
- f.* Effective January 1, 1995, records will show, with respect to each employee, member contributions picked up by the employer.

4.2(3) Reports.

a. Each employing unit shall make reports as IPERS may require and shall comply with the instructions printed upon any report form issued by IPERS pertaining to the preparation and return of the report.

b. Effective July 1, 1991, employers must report all terminating employees to IPERS within seven working days following the employee's termination date. This report shall contain the employee's last-known mailing address and such other information as IPERS might require.

c. Effective December 31, 2004, and annually thereafter, employers whose job classes include correctional officers, correctional supervisors, and others whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety and security within a correctional facility shall submit to IPERS each calendar year a list of jobs that qualify for protection occupation class coverage. This report shall also contain any changes in the designation of jobs as qualifying or not qualifying for protection occupation class coverage and effective dates of changes. IPERS' sole responsibility with respect to protection occupation status determinations is to ascertain whether IPERS' records correctly reflect service credit and contributions that are in accordance with the employer's designation of a position as being within a protection occupation class.

4.2(4) Fees. IPERS may assess to the employer a fee based on IPERS' actual cost incurred in correcting an employer's errors if an employer fails to file required documents and remittances accurately.

495—4.3(97B) Wage reporting and payment of contributions by employers.

4.3(1) *Payment of contributions.* Any public employing unit whose combined employer/employee IPERS contribution equals or exceeds \$100 per month is required to pay the contribution on a monthly basis. All other employing units are required to pay the contribution on a quarterly basis, at the same time that they file wage reports. When an employing unit becomes enrolled as an IPERS covered employer, IPERS will provide the appropriate forms and instructions for the submission and report of contributions and wage amounts.

Any employer filing monthly or quarterly employer remittance advice forms for two or more entities shall attach to each remittance form the checks covering the contributions due on that form. Improperly paid contributions are considered as unpaid.

All checks in payment of the total contribution shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117.

IPERS may also accept the payment of contributions through electronic funds transfer using processes developed by IPERS to implement these electronic transactions. The payments and reports made utilizing the electronic transfer system shall be made according to the procedure described in subrule 4.3(3).

4.3(2) *Wage reports.* Each wage reporting form must include all employees who earned reportable wages or wage equivalents under IPERS. If an employee has no reportable wage in a quarter but is still employed by the employing unit, the employee's name should not appear on the report. Wage reports must be received by IPERS on or before the last day of the month following the close of the calendar quarter in which the wages were paid.

4.3(3) *Wage report and payment of contribution deadlines.*

a. For employers filing quarterly employer remittance advice forms and paying by check, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the calendar quarter in which the wages were paid. If the fifteenth falls on a weekend or holiday, the remittance is due on the next regularly scheduled workday.

b. For employers filing monthly employer remittance advice forms and paying by check, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the month in which wages were paid. If the fifteenth falls on a weekend or holiday, the remittance is due on the next regularly scheduled workday.

c. For those employers paying by check, all contributions for the quarter must be received prior to quarterly wage reports being entered into IPERS' wage records. Mail time must be allowed by employers mailing checks.

d. For employers paying contributions by electronic funds transfer, the same payment schedule must be followed as for those employers paying by check; however, wage reports and contributions may be submitted at the same time.

4.3(4) *Request for time extension.* A request for an extension of time to file a wage report or pay a contribution may be granted by IPERS for good cause if presented before the due date, but no extension shall exceed 15 days beyond the due date. If an employer that has been granted an extension fails to pay the contribution on or before the end of the extension period, interest shall be charged and paid from the original due date as if no extension had been granted. If the fifteenth day falls on a weekend or holiday, the remittance or report is due on the next regularly scheduled workday.

To establish good cause for an extension of time to file a wage report or pay contributions, the employer must show that the delinquency was not due to mere negligence, carelessness or inattention. The employer must affirmatively show that it did not file the report or timely pay because of some occurrence beyond the control of the employer.

4.3(5) *No reportable wages.* When an employer has no reportable wages or no wages to report during the applicable reporting period, the wage reporting document should be marked “no reportable wages” or “no wages” and returned to IPERS. Even if there are no reportable wages, the employing unit’s account is considered delinquent for the reporting period until the report is filed.

4.3(6) *Penalties for noncompliance.* IPERS may impose reasonable penalties on employers that fail to timely file wage reports or pay a contribution when due.

4.3(7) *Substitute forms.* Substitute forms may be used if they meet all the IPERS reporting requirements.

4.3(8) *Employers reporting for 50 or more employees.* Employers reporting wages for 50 or more members in a quarter must submit this information via magnetic media (tape, floppy diskette or cartridge). IPERS also accepts wage reports electronically via IPERS’ connection on-line system (ICON). Noncompliance will result in an administrative charge of \$50 issued as a debit to the employer’s account for each quarter of noncompliance.

4.3(9) *Erroneously reported wages for employees not covered under IPERS.* Employers that erroneously report wages for employees who are not covered under IPERS may secure a warrant or credit, as elected by the employer, for the employer’s contributions by filing an IPERS periodic wage reporting adjustments form available from IPERS. An employer that files a periodic wage reporting adjustments form requesting a warrant or credit shall receive a warrant or credit for both the employer and employee contributions made in error. The employer is responsible for returning the employee’s share and for filing corrected federal and state wage reporting forms. Warrants will not be issued by IPERS if the amount due is less than \$1. In such cases, the credit will be transferred to the employer’s credit memo. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee’s request for a refund on an IPERS refund application form will not be permitted to file a periodic wage reporting adjustments form for that employee for the same period of time.

4.3(10) *Contributions paid on wages in excess of the annual covered wage maximum.* Effective for wages paid in calendar years beginning on or after January 1, 1995, IPERS shall issue to each affected employer a credit or a warrant, as requested by the employer, of both employer and employee contributions paid on wages in excess of the annual covered wage maximum for a calendar year. A report will be forwarded to each such employer detailing each employee for whom wages were reported in excess of the covered wage ceiling. Warrants will not be issued if the amount due is less than \$1. In such cases, the credit will be transferred to the employer’s credit memo. The employer is responsible for returning the employee’s share of excess contributions. When employees have simultaneous employment with two or more employers and as a result contributions are made on wages in excess of the annual covered wage maximum, warrants or credits for the excess employer and employee contributions shall be issued to each employer in proportion to the amount of contributions paid by the employer.

4.3(11) Termination within less than six months of the date of employment. If an employee hired for permanent employment terminates within six months of the date of employment, the employer may file an IPERS form for reporting adjustments to receive a warrant or a credit, as elected by the employer, for both the employer's and employee's portions of the contributions. It is the responsibility of the employer to return the employee's share. "Termination within less than six months of the date of employment" means employment is terminated prior to the day before the employee's six-month anniversary date. For example, an employee hired on February 10 whose last day is August 8 would be treated as having resigned within less than six months. An employee hired on February 10 whose last day is August 9 (the day before the six-month anniversary date, August 10) would be treated as having worked six months and would be eligible for a refund.

4.3(12) Reinstatement following an employment dispute. Employees who are reinstated following an employment dispute may restore membership service credit as described in 495—9.5(97B).

495—4.4(97B) Accrual of interest. Interest or charges as provided under Iowa Code section 97B.9 shall accrue on any contributions not received by IPERS by the due date, except that interest or charges may be waived by IPERS upon request prior to the due date by the employing unit, if due to circumstances beyond the control of the employing unit.

495—4.5(97B) Credit memos voided. Effective July 1, 1992, credit memos that have been issued due to an employer's overpayment are void one year after issuance.

495—4.6(97B) Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

4.6(1) Effective July 1, 2007, except as otherwise provided by law, the following contribution rates shall be effective for all covered members except those identified in subrules 4.6(2) and 4.6(3):

	Ended June 30, 2007	Effective July 1, 2007	Effective July 1, 2008	Effective July 1, 2009	Effective July 1, 2010
Combined rate	9.45%	9.95%	10.45%	10.95%	11.45%
Employer	5.75%	6.05%	6.35%	6.65%	6.95%
Employee	3.70%	3.90%	4.10%	4.30%	4.50%

4.6(2) Sheriffs and deputy sheriffs, effective July 1, 2007.

- a. Member's rate—7.70%.
- b. Employer's rate—7.70%.

4.6(3) Members employed in a protection occupation, effective July 1, 2007.

- a. Member's rate—5.64%.
- b. Employer's rate—8.47%.

4.6(4) Members employed in a "protection occupation" shall include:

a. Conservation peace officers. Effective July 1, 2002, all conservation peace officers, state and county, as described in Iowa Code sections 350.5 and 456A.13.

b. Effective July 1, 1994, a marshal in a city not covered under Iowa Code chapter 400 or a firefighter or police officer of a city not participating under Iowa Code chapter 410 or 411. (See employee classifications in rule 495—5.1(97B).) Effective January 1, 1995, part-time police officers shall be included.

c. Correctional officers as provided for in Iowa Code section 97B.49B. Employees who, prior to December 22, 1989, were in a “correctional officer” position but whose position is found to no longer meet this definition on or after that date shall retain coverage, but only for as long as the employee is in that position or another “correctional officer” position that meets this definition. Movement to a position that does not meet this definition shall cancel “protection occupation” coverage.

d. Airport firefighters employed by the military division of the department of public defense (airport firefighters). Effective July 1, 2004, airport firefighters become part of and shall make the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1, 1994, through June 30, 2004, airport firefighters were grouped with and made the same contributions as sheriffs and deputy sheriffs. From July 1, 1988, through June 30, 1994, airport firefighters were grouped with and made the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1, 1986, through June 30, 1988, airport firefighters were a separate protection occupation group and made contributions at a rate calculated for members of that group. Prior to July 1, 1986, airport firefighters were grouped with regular members and made the same contributions as regular members.

Notwithstanding the foregoing, all airport firefighter service prior to July 1, 2004, shall be coded by IPERS as sheriff/deputy sheriff/airport firefighter service, and all airport firefighter service after June 30, 2004, shall be coded by IPERS as protection occupation service. This coding, however, shall not supersede provisions of this title that require members to make contributions at higher rates in order to receive certain benefits, such as in the hybrid formula pursuant to 495—12.4(97B).

e. Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city with a population of 100,000 or more, and employees covered by the Iowa Code Supplement chapter 8A merit system whose primary duties are providing airport security and who carry or are licensed to carry firearms while performing those duties.

f. Effective July 1, 1990, an employee of the state department of transportation who is designated as a “peace officer” by resolution under Iowa Code section 321.477.

g. Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety. Effective July 1, 1994, a fire prevention inspector peace officer employed before that date who does not elect coverage under Iowa Code chapter 97A in lieu of IPERS.

h. Effective July 1, 1994, through June 30, 1998, a parole officer III with a judicial district department of correctional services.

i. Effective July 1, 1994, through June 30, 1998, a probation officer III with a judicial district department of correctional services.

4.6(5) Service reclassification.

a. Prior to July 1, 2006, except as otherwise indicated in the implementing legislation or these rules, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall be coded by IPERS staff as special service if certified by the employer as constituting special service under current law. No additional contributions shall be required by regular service reclassified as special service under this paragraph.

b. Effective July 1, 2006, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall continue to be coded by IPERS staff as regular service unless the legislature specifically provides in its legislation for payment of the related actuarial costs of such reclassified service as required under Iowa Code section 97B.65 as amended by 2006 Iowa Acts, House File 729, section 10.

4.6(6) Effective July 1, 2006, in the determination of a sheriff's or deputy sheriff's eligibility for benefits and the amount of such benefits under Iowa Code section 97B.49C, all protection occupation service credits for that member shall count toward the total years of eligible service as a sheriff or deputy sheriff. However, this subrule shall not be construed to alter the statutory requirement that a sheriff or deputy sheriff must be employed as a sheriff or deputy sheriff at termination of covered employment in order to qualify for benefits under Iowa Code section 97B.49C as amended by 2006 Iowa Acts, House File 2245, section 5.

4.6(7) Prior special rates are as follows:

Effective July 1, 2006, through June 30, 2007:

a. Sheriffs and deputy sheriffs:

(1) Member's rate—8.37%.

(2) Employer's rate—8.37%.

b. Protection occupation:

(1) Member's rate—6.08%.

(2) Employer's rate—9.12%.

4.6(8) Pretax.

a. Effective January 1, 1995, employers must pay member contributions on a pretax basis for federal income tax purposes only. Such contributions are considered employer contributions for federal income tax purposes and employee contributions for all other purposes. Employers must reduce the member's salary reportable for federal income tax purposes by the amount of the member's contribution.

b. Salaries reportable for purposes other than federal income tax will not be reduced, including for IPERS, FICA, and, through December 31, 1998, state income tax purposes.

c. Effective January 1, 1999, employers must pay member contributions on a pretax basis as provided in 4.6(7) "a" above for both federal and state income tax purposes.

495—4.7(97B) Enrollment of new employees by covered employers. Effective September 1, 2002, covered employers shall be required to enroll new employees prior to reporting wages for the new employees. Enrollment information shall include, but is not limited to, the following: member's name, social security number, date of birth, gender, and mailing address, and employer identification number. Employers may submit enrollment information for new employees on paper, but are encouraged to use magnetic media or Internet enrollment when available. A wage report filed by an employer through the Internet when IPERS makes the option available shall be rejected if the report contains new employees who have not yet been enrolled in the IPERS system.

495—4.8(97B) Additional employer contributions from employer-mandated reduction in hours. This rule applies only to the restoration of covered wages caused by an employer-mandated reduction in hours (EMRH). It does not apply to reductions in base wages or to permanent layoffs or other termination of employment situations.

4.8(1) A member may restore the member's three-year average covered wage to the amount that it would have been but for an EMRH by completing the IPERS application for additional employer contributions and payroll deductions authorization.

4.8(2) A member cannot pay the additional employer contributions described under this rule in any manner except through payroll deductions.

4.8(3) The payroll deductions authorization described under this rule shall be irrevocable, except upon death, retirement or termination of employment. If revoked by the member's death, retirement, or termination of employment, all amounts held by an employer in the member's name shall be forwarded to the member along with the member's final wages.

4.8(4) A member may obtain a refund of amounts contributed under this rule as part of a refund of the member's entire account balance, but a member who chooses a retirement allowance shall not receive a refund of any amounts contributed, even if the covered wages being restored are not used in the member's three-year average covered wage.

4.8(5) A member may have the payroll deductions authorized in this rule made in more than one installment, but if the amount to be contributed to IPERS is less than \$100, the full amount must be deducted from one payroll payment, if the member has at least \$100 of wages available after other deductions required by law.

4.8(6) A covered employer must cooperate with an eligible employee's request for payroll deductions using the applicable IPERS forms. Employers collecting the additional retirement contributions authorized in this rule shall be required to complete a certificate showing the covered wages actually paid to the member in the affected quarters and the covered wages that would have been reported but for the EMRH.

4.8(7) Employers shall collect and hold amounts to be contributed pursuant to this rule until the full amount can be forwarded to IPERS in one installment.

4.8(8) In completing the federal wage reporting forms to be filed with the federal and state tax authorities, an employer shall treat amounts collected and forwarded the same as pretax IPERS employee contributions.

4.8(9) Upon receipt, IPERS shall credit the amounts collected and forwarded in this rule to the member's account as pretax employee contributions. Adjustments to the employee's wage records shall be made as indicated in the employer's certification of covered wages that would have been reported but for the EMRH.

4.8(10) The collection of contributions under this program shall terminate as of midnight, December 31, 2003. Amounts collected must be forwarded by a covered employer no later than the March 31, 2004, contribution filing deadline.

These rules are intended to implement Iowa Code sections 97B.49A to 97B.49I.

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